

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

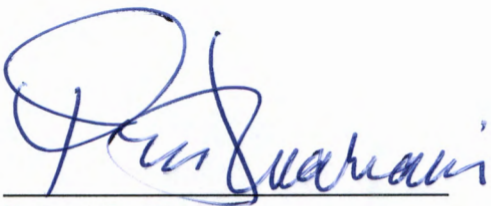
DERRICK GIBSON,	:	Civil No. 3:22-cv-1538
	:	
Plaintiff	:	(Judge Mariani)
	:	
v.	:	
	:	
SUPERINTENDENT BERNADETTE	:	
MASON, <i>et al.</i> ,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 6th day of May, 2024, upon consideration of the Corrections Defendants' motion (Doc. 68) to dismiss, and the parties' respective briefs in support of and in opposition to said motion, and for the reasons set forth in the accompanying Memorandum, **IT IS HEREBY ORDERED THAT:**

1. The motion (Doc. 68) is **GRANTED** in part and **DENIED** in part as follows.
2. The motion to dismiss the Eighth Amendment excessive force claim is **DENIED**.
3. The motion to dismiss Plaintiff's medical malpractice claim for failure to file a certificate of merit is **DENIED** without prejudice to refile upon compliance with PA. R. Civ. P. 1042.6.
4. The motion to dismiss the Eighth Amendment inadequate medical care claim against Wagner, Mayernick, Derr, Swartz, Lear, and Rodak is **GRANTED**.
5. The motion to dismiss the failure to protect/failure to intervene claim, retaliation claim, conspiracy claim, and conditions of confinement claim related to the prison cell conditions is **GRANTED**.

6. The motion to dismiss the supervisory liability claim against Mason and Stetler is **GRANTED**.
7. The motion to dismiss the state law claim for intentional infliction of emotional distress is **GRANTED**.
8. The claims against Benjamin Liebersohn are **DISMISSED**.
9. The Corrections Defendants shall file an answer, or appropriate pretrial motion, in the manner set forth in the Federal Rules of Civil Procedure.
10. Any appeal from this Order is deemed frivolous and not taken in good faith. See 28 U.S.C. § 1915(a)(3).

A handwritten signature in blue ink, appearing to read "Robert D. Mariani", is written over a horizontal line.

Robert D. Mariani
United States District Judge